



OEU 28 2000)

RECEIVED

DEC 27 200C?

TECH CENTER 1800/2900

Certificate of Mailing

I hereby certify that, on the date shown below, this **Effection and its** attachments are being deposited with the United States Postal Service, as first class mail in an envelope addressed to the Assistant Commissioner for Patents, Washington, DC 20231 in accordance with

37 C.F.R. § 1.8(a).

Date

Colby S. Delgado

#27 1/4/01

## IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

§

§ §

§ §

§

§ §

§

Applicant:

Lars Abrahmsen, et al.

Filed: July 25, 1997

Serial No.: 08/765,695

For: CONJUGATE BETWEEN A MODIFIED

SUPERANTIGEN AND A TARGET-SEEKING COMPOUND AND THE USE

OF THE CONJUGATE

Atty. Docket: P01525US0 / 09804877

**Group Art Unit: 1644** 

**Examiner: R. Schwadron** 

BOX: PATENT APPLICATION Assistant Commissioner for Patents

Washington, D.C. 20231

## REQUEST FOR RECONSIDERATION OF PETITION DECISION

Dear Sir:

Applicants respectfully request reconsideration of the Petition Decision dated November 29, 2000, in the above-referenced case (Petition Under 37 C.F.R. § 1.144 and 1.181). This request for reconsideration is being filed within two months of the decision date, making this request timely.

5596705.1

The petition was denied because it was argued that the examiner was correct in asserting fact 2 7 2002? of unity because the independent claim, the conjugate, allegedly does not avoid the prior EFFER 1600/2000

The decision disregarded applicants' arguments that the restriction was improper, by CEIVED characterizing applicants' arguments as only showing that the conjugate was not "anticipated" by 28 2000; the prior art. The decision stated that: "Although applicants appear to argue that the reference of the strength of the prior art, Annex B does not require anticipation, merely that the claimed invention not avoid the prior art. This could be because of lack of novelty or lack of inventive step." The Petition was therefore denied because applicants allegedly did not properly show that the conjugate avoids the prior art (both novelty or lack of inventive step).

1

It is a misunderstanding and misinterpretation of the arguments in the petition to say that they do not argue that the conjugate avoids the prior art (both novelty or lack of inventive step). As argued in the petition, the prior art Buelow paper does not anticipate or render obvious (under both novelty or lack of inventive step) the subject matter of the independent claim (the conjugate). For example, page 6, line 12 of the petition states: "Buelow does not in any manner teach, disclose or suggest [the claimed conjugate]". This is not merely an argument that the conjugate is not anticipated. It is clearly arguing that the conjugate avoids the prior art under both novelty and lack of inventive step (see further, for example, page 7, lines 5-6 ("Indeed, the actual data presented in Buelow makes it clear that it does not teach or predict anything about [the claimed conjugate]."), and lines 11-12 ("Hence, there is no way that one skilled in the art could gain any information from Buelow about which residues...")).

Applicants respectfully reiterate that, for the reasons carefully argued and supported in the petition, Buelow does not teach, disclose, suggest, predict, anticipate, render obvious, destroy 2

novelty, or destroy inventive step of the conjugate of the independent claim. Accordingly, the

examiner's determination of lack of unity was in error as the conjugate as set forth in claim 14 does

avoid the prior art.

Furthermore, in the petition, applicants provide detailed reasons and arguments as to why the

conjugate avoids the prior art. The decision does not address any of these detailed reasons and

arguments. The entirety of the decision directed to the merits is only a single paragraph, at the

bottom of the second page. Applicants request that the detailed arguments and reasons in the

petition be properly addressed.

Reconsideration of applicants' petition is therefore respectfully requested, followed by

reconsideration of the Petition Decision, and subsequent withdrawal of restriction requirement. This

will properly allow for examination of the subject matter of conjugate and method claims to be

examined on the merits in this application.

Please charge any fees due to the standing account of Fulbright & Jaworski L.L.P., Deposit

No. 06-2375/09804877.

Respectfully submitted,

David L. Fox, Ph.D.

Reg. No. 40,612

Attorney for Applicants

Date:

5596705.1

FULBRIGHT & JAWORSKI L.L.P.

Decarbar 18, 2000

1301 McKinney, Suite 5100

Houston, Texas 77010-3095

Telephone: 713-651-8231

Fax: 713-651-5246

3